

Amendment No. 1 to SB1228

Bell
Signature of Sponsor

AMEND Senate Bill No. 1228

House Bill No. 718*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act is known and may be cited as the "Safe Seniors Act of 2021".

SECTION 2. Tennessee Code Annotated, Section 39-13-202(a)(2), is amended by deleting the subdivision and substituting the following:

(2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping, aggravated abuse of an elderly or vulnerable adult in violation of § 39-15-511, aggravated neglect of an elderly or vulnerable adult in violation of § 39-15-508, aggravated child abuse, aggravated child neglect, rape of a child, aggravated rape of a child, or aircraft piracy; or

SECTION 3. Tennessee Code Annotated, Section 39-13-502(a)(3)(B), is amended by deleting the subdivision and substituting the following:

(B) The defendant knows or has reason to know that the victim is:

- (1) Mentally defective;
- (2) Mentally incapacitated;
- (3) Physically helpless; or
- (4) A vulnerable adult, as defined in § 39-15-501, with an intellectual disability.

SECTION 4. Tennessee Code Annotated, Section 39-13-503(a)(3), is amended by deleting the subdivision and substituting the following:

(3) The defendant knows or has reason to know that the victim is:

- (A) Mentally defective;
- (B) Mentally incapacitated;
- (C) Physically helpless; or
- (D) A vulnerable adult, as defined in § 39-15-501, with an intellectual disability.

SECTION 5. Tennessee Code Annotated, Section 39-15-501(4), is amended by deleting subdivision (A) and substituting:

(A)

(i) Means a relative or person who has a legal duty to provide care for an elderly or vulnerable adult, whether such duty arises by the relative or person's claim or conduct, contract, or in any other fashion; or

(ii) Means a person who is married to or in a dating, romantic, or sexual relationship with someone who qualifies as a caregiver under subdivision (4)(A)(i) and resides with or has regular contact with the elderly or vulnerable adult; and

SECTION 6. Tennessee Code Annotated, Section 39-15-501(7), is amended by deleting subdivision (7)(C) and substituting:

(C) The act of obtaining or exercising control over an elderly or vulnerable adult's property, without receiving the elderly or vulnerable adult's effective consent, by a caregiver or accomplice committed with the intent to benefit the caregiver or other third party;

SECTION 7. Tennessee Code Annotated, Section 39-15-501(9), is amended by deleting the subdivision and substituting the following:

(9) "Physical harm" means an action, regardless of gravity or duration, that:

(A) Causes pain or injury; or

(B) Would cause a reasonable person to suffer pain or injury;

SECTION 8. Tennessee Code Annotated, Section 39-15-501(10), is amended by deleting the language "means a spouse" and substituting instead "means a current or former spouse".

SECTION 9. Tennessee Code Annotated, Section 39-15-501(13), is amended by deleting the first sentence and substituting:

"Sexual exploitation" means an act committed upon or in presence of an elderly or vulnerable adult, without that adult's effective consent, that is committed for the purpose of sexual arousal or gratification, or for the purpose of dissemination to others by a person who knew or should have known the act would offend or embarrass a reasonable person.

SECTION 10. Tennessee Code Annotated, Section 39-15-501(13), is amended by deleting the language "fondling" and substituting "sexual contact, as defined in § 39-13-501".

SECTION 11. Tennessee Code Annotated, Section 39-15-504, is amended by deleting the section and substituting the following:

In a case where an alleged offense under this part has been committed against an elderly or vulnerable adult, the state may make a motion that the testimony of the victim be preserved. Upon the filing of the motion, the court shall set a hearing on that motion within fifteen (15) days. At the hearing, the court shall set a date for the deposition of the victim to be taken. The date for the deposition of the victim must be within sixty (60) days of the filing of the original motion. Rule 15 of the Tennessee Rules of Criminal Procedure governs the manner by which the court is to proceed. It is presumed that a victim under this part needs to have testimony preserved. Rule 15 of the Tennessee Rules of Criminal Procedure governs all other motions to preserve testimony of a witness, made by either party.

SECTION 12. Tennessee Code Annotated, Section 39-15-505(a), is amended by adding the following at the end of the subsection:

The state may request the motion in any court, juvenile, general sessions, criminal, or circuit, having jurisdiction over the accused and may initiate the motion at any stage of the proceedings after the accused's initial appearance.

SECTION 13. Tennessee Code Annotated, Section 39-15-506(a)(1), is amended by deleting the subdivision and substituting the following:

(1) Following a conviction for a violation of § 39-15-502, § 39-15-507(b) or (c), § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, or an attempt to commit any of those offenses, or at the discretion of the court for a conviction of § 39-15-507(d), the clerk of the court shall notify the department of health of the conviction by sending a copy of the judgment in the manner set forth in § 68-11-1003 for inclusion on the registry pursuant to title 68, chapter 11, part 10.

SECTION 14. Tennessee Code Annotated, Title 39, Chapter 15, Part 5, is amended by adding the following as a new section:

The circuit, general sessions, and chancery courts have jurisdiction over proceedings arising under this part.

SECTION 15. Tennessee Code Annotated, Section 40-35-115(b), is amended by adding the following language as a new subdivision:

(8) The defendant is convicted of two (2) or more offenses involving sexual exploitation of an elderly or vulnerable adult with consideration of the aggravating circumstances arising from the relationship between the defendant and victim, the nature and scope of the sexual acts, and the extent of the physical and mental damage to the victim.

SECTION 16. Tennessee Code Annotated, Section 40-11-150(a), is amended by deleting the subsection and substituting the following:

(a) In addition to the factors set out in § 40-11-118, in making a decision concerning the amount of bail required for the release of a defendant who is arrested for the offense of child abuse, child neglect, or child endangerment, as

defined in § 39-15-401; the offense of aggravated child abuse, aggravated child neglect, or aggravated child endangerment, as defined in § 39-15-402; the offense of stalking, aggravated stalking, or especially aggravated stalking, as defined in § 39-17-315; a violation of § 39-15-507 or § 39-15-508, involving neglect or aggravated neglect of an elderly or vulnerable adult; a violation of §§ 39-15-510 or 39-15-511 involving abuse or aggravated abuse of an elderly or vulnerable adult; any criminal offense defined in title 39, chapter 13, in which the alleged victim of the offense is a victim as defined in § 36-3-601(5), (10), or (11), or is in violation of an order of protection as authorized by title 36, chapter 3, part 6, the magistrate shall review the facts of the arrest and detention of the defendant and determine whether the defendant is:

- (1) A threat to the alleged victim;
- (2) A threat to public safety; and
- (3) Reasonably likely to appear in court.

SECTION 17. Tennessee Code Annotated, Section 40-11-150(k)(1), is amended by deleting the subdivision and substituting the following:

(1) A magistrate or other official shall not release an offender arrested for a violation of § 39-15-510 or § 39-15-511, involving abuse or aggravated abuse of an elderly or vulnerable adult, or for a violation of § 39-15-507 or § 39-15-508, involving neglect or aggravated neglect of an elderly or vulnerable adult, within twelve (12) hours of the time of arrest. However, the magistrate or other official duly authorized to release the offender may release the offender in less than twelve (12) hours if the magistrate or other official finds that the offender is not a threat to the alleged victim.

SECTION 18. Tennessee Code Annotated, Section 71-6-118(c)(2), is amended by adding the following as a new subdivision:

(D) In addition to the disclosures adult protective services is required to make under § 39-15-509, shall provide to the district attorney general, upon request, the

names of individuals obtained in the course of an adult protective services investigation that have information relevant to a criminal investigation of alleged conduct involving an elderly or vulnerable adult victim. However, if the name of the person that reported the alleged conduct is included, then the individual must not be identified as the reporter of the alleged conduct.

SECTION 19. For the purpose of promulgating rules, policies, and procedures for the implementation of this act, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect October 1, 2021, the public welfare requiring it.